

Assembly Bill No. 2312

Passed the Assembly August 18, 2014

Chief Clerk of the Assembly

Passed the Senate August 11, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 12703.1 of, and to add Section 21608.7 to, the Business and Professions Code, and to add Article 6 (commencing with Section 11199.5) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to metal theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 2312, Nestande. Metal theft.

Existing law governs the business of buying, selling, and dealing in secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, also known as “junk.” Existing law requires junk dealers and recyclers to keep a written record of all sales and purchases made in the course of their business, including the name and address of each person to whom junk is sold or disposed of, and to preserve the written record for at least 2 years after making the final entry of any purchase or sale of junk.

Existing law provides that it is a crime for a dealer in or collector of junk, metals, or secondhand materials, or the agent, employee, or representative of that dealer or collector, who buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, city and county, or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so.

Existing law, until January 1, 2019, requires the Department of Food and Agriculture to require a recycler or junk dealer who is an applicant for a new weighmaster license or a renewal of a weighmaster license to furnish specified additional information on the application.

This bill would require a junk dealer or recycler to request to receive theft alert notifications regarding the theft of commodity metals in the junk dealer's or recycler's geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., unless the institute or its successor requires

payment for use of the theft alert system. The bill would require the Department of Food and Agriculture, until January 1, 2019, to require a junk dealer or recycler who is an applicant for a new weighmaster license or a renewal of a weighmaster license to also include a statement on the application indicating that the applicant has requested to receive the theft alert notifications, unless the request requirement does not apply. The bill would also encourage local law enforcement agencies to report thefts of commodity metals that have occurred within their jurisdiction to that theft alert system, in order to ensure that persons using the system receive timely and thorough information regarding metal thefts. The bill would prohibit the institute or its successor from selling subscribers' information to 3rd parties. The bill would state findings and declarations by the Legislature regarding the theft alert system.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Institute of Scrap Recycling Industries, Inc. (ISRI) developed ScrapTheftAlert.com, which is a web-based theft alert system that allows law enforcement to alert recyclers of reported stolen material and allows recyclers to alert area law enforcement when they have received materials they believe might have been stolen.

(b) This alert system broadcasts theft alerts to every registered user within a 100-mile radius of where the theft occurred and can expand depending on the circumstances.

(c) ISRI has worked closely with law enforcement and has integrated their suggestions into the system's latest update to make its use more user-friendly for law enforcement.

(d) There is no cost to law enforcement or non-ISRI members to use the system.

(e) Members of ISRI pay for the entire database through their membership dues.

SEC. 2. Section 12703.1 of the Business and Professions Code is amended to read:

12703.1. (a) In addition to any other requirements for issuance of a license pursuant to this chapter, if the applicant is a recycler

or junk dealer as defined in Section 21601, the department shall require the applicant to furnish all of the following information accurately on any application for a new license or the renewal of a license issued pursuant to this chapter:

- (1) A copy of the applicant's current business license.
 - (2) A statement indicating that the applicant has either filed an application for a stormwater permit or is not required to obtain a stormwater permit.
 - (3) A statement indicating that the applicant has the equipment necessary to comply with the photographic and thumbprinting requirements for the purchase and sale of nonferrous materials pursuant to Section 21608.5 or a statement indicating that the applicant will not be purchasing or selling nonferrous materials and is not required to comply with Section 21608.5.
 - (4) A statement indicating that the applicant has requested to receive theft alert notifications pursuant to subdivision (a) of Section 21608.7, unless that requirement does not apply pursuant to subdivision (b) of that section.
 - (5) The name or names of any deputy weighmasters.
- (b) The department shall issue a license to a junk dealer or recycler upon receipt of an application for a new license or renewal of a license that contains the information required by subdivision (a) and that is accompanied by the appropriate fee.
- (c) (1) On or before December 31, 2014, upon issuance of a license to a junk dealer or recycler, or renewal of such a license, the department shall make a thorough investigation of all of the information contained in the application within 90 days. If the license is issued or renewed on or after January 1, 2015, the department shall make a thorough investigation of all the information contained in the application within 90 days for a new license, and within one calendar year for a renewal of a license.
- (2) Notwithstanding Section 12708, if the department determines that the information submitted pursuant to subdivision (a) is materially inaccurate, the department shall revoke the license issued to a junk dealer or recycler unless the junk dealer or recycler complies with the requirements of subdivision (a) within 14 days of notice from the department of a proposed revocation pursuant to this subdivision.
- (3) A junk dealer or recycler whose license has been revoked pursuant to this subdivision is entitled to a hearing conducted

pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The secretary may enter into a cooperative agreement with any county sealer to carry out the provisions of this section.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 3. Section 21608.7 is added to the Business and Professions Code, to read:

21608.7. (a) A junk dealer or recycler shall request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor.

(b) The requirement in subdivision (a) does not apply if the institute or its successor requires payment for use of the theft alert system.

SEC. 4. Article 6 (commencing with Section 11199.5) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

Article 6. Reports of Metal Theft

11199.5. Local law enforcement agencies are encouraged to report thefts of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, that have occurred within their jurisdiction to the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor, in order to ensure that persons using that system receive timely and thorough information regarding metal thefts. The institute or its successor shall not sell subscribers' information received pursuant to this section to third parties.

Approved _____, 2014

Governor